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Attorneys for Defendant TrackMan, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Wyoming Intellectual Property Holdings,
LLC,

Plaintiff,

vs.

TrackMan, Inc.,

Defendant.

Case No. 2:23-cv-02518-JJT

**CERTIFICATION OF CONFERRAL
REGARDING MOTION TO DISMISS
FIRST AMENDED COMPLAINT**

(Assigned to the Hon. John J. Tuchi)

Pursuant to L.R. Civ. 12.1(c), undersigned counsel personally certifies that certain attorneys representing Defendant TrackMan, Inc. (“TrackMan”) notified counsel for Plaintiff Wyoming Intellectual Property Holdings, LLC (“Plaintiff”) of its Motion to Dismiss (the “Motion”), being filed concurrently herewith, by email four (4) times between April 19 and April 24, 2024, and on April 24, 2024 conferred further by phone, a few hours before the Motion was filed. TrackMan understands that Plaintiff opposes TrackMan’s

1 Motion to the extent it asks the Court to dismiss the First Amended Complaint (the “FAC”)
2 in its entirety with prejudice but that Plaintiff does not oppose TrackMan’s alternative
3 request that the Court dismiss Plaintiff’s willful infringement allegation. The parties’
4 discussions are detailed further below.

5 On April 19, 2024, counsel for TrackMan first emailed counsel for Plaintiff setting
6 forth the bases for TrackMan’s Motion, encouraging Plaintiff to voluntarily dismiss the
7 FAC, or at least the willful infringement allegations, and asking for Plaintiff’s counsel’s
8 availability to personally confer.

9 On April 22, 2024, counsel for TrackMan again emailed counsel for Plaintiff “to
10 follow up on [the] email of last week regarding meeting and conferring on the motion to
11 dismiss” and asking Plaintiff’s counsel “when you are available to speak”

12 On April 23, 2024 counsel for TrackMan again emailed counsel for Plaintiff seeking
13 a time to confer on TrackMan’s forthcoming Motion.

14 Still having received no response, in the morning of April 24, 2024, counsel for
15 TrackMan emailed again, asking if Plaintiff’s counsel would like to discuss by telephone.
16 Counsel subsequently conferred by email and telephone, and based on those discussions,
17 TrackMan drafted a proposed stipulation to dismiss the willfulness allegations and sent it
18 to counsel for Plaintiff. Counsel for Plaintiff agreed to the stipulation, and it was filed
19 earlier today with the Court (ECF No. 28).

20 Based on the parties’ telephone conference and email correspondence, TrackMan
21 understands that Plaintiff opposes TrackMan’s case-dispositive Motion on the grounds that
22 the asserted patent is invalid under 35 U.S.C. § 101.

23 Accordingly, TrackMan filed the Motion to Dismiss being filed concurrently with
24 this Certification.

1 DATED this 24th day of April, 2024.

2 **SPENCER FANE LLP**

3
4 *s/ David E. Funkhouser III*

5 David E. Funkhouser III

6 Jessica A. Gale

7 **GOODWIN PROCTER LLP**

8 Scott T. Weingaertner, Esq. (*admitted pro*
9 *hac vice*)

10 Stefan Mentzer, Esq. (*admitted pro hac*
11 *vice*)

12 Timothy Keegan, Esq. (*admitted pro hac*
13 *vice*)

14 *Attorneys for Defendant TrackMan, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on April 24 2024, a copy of the foregoing was filed electronically using the Clerk of Court's CM/ECF system, which will provide notice to all counsel of record.

s/ Courtney Ryan